

The Honorable \_\_\_\_\_

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JAN 22 2003 KN

CLERK OF DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
BY \_\_\_\_\_ DEPUTY

CV 03-115 #1

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

**C03-0115**

BAINBRIDGE MANUFACTURING, INC., )  
a Washington corporation, )  
  
Plaintiff, )  
  
v. )  
  
ADJUSTABLE CLAMP COMPANY, an )  
Illinois corporation, )  
  
Defendant. )

Civil Action No.

COMPLAINT FOR TRADEMARK  
INFRINGEMENT, FALSE DESIGNATION  
OF ORIGIN, UNFAIR COMPETITION,  
UNFAIR BUSINESS PRACTICES,  
FEDERAL TRADEMARK DILUTION,  
AND STATE TRADEMARK DILUTION  
  
DEMAND FOR JURY TRIAL

Plaintiff Bainbridge Manufacturing, Inc., for its Complaint herein, alleges as follows:

**NATURE OF ACTION**

1. This is an action for trademark infringement, unfair competition, unfair business practices, and trademark dilution in violation of the Lanham Act, 15 U.S.C. § 1051 *et seq.*, the

COMPLAINT; AND  
JURY DEMAND..... 1

SEED INTELLECTUAL PROPERTY LAW GROUP PLLC  
701 FIFTH AVENUE, SUITE 6300  
SEATTLE, WASHINGTON 98104-7092  
(206) 622-4900

1 Washington State trademark dilution state, R.C.W. § 19.77.060, the Washington Consumer  
2 Protection Act, R.C.W. § 19.86.020, and the common law.  
3

4 **THE PARTIES**

5 2. Plaintiff Bainbridge Manufacturing, Inc. ("Bainbridge" or "Plaintiff") is a  
6 Washington corporation having an address at P.O. Box 847, Waterville, Washington 98858.  
7

8 3. Upon information and belief, Defendant Adjustable Clamp Company is an  
9 Illinois corporation with an address at 417 N. Ashland Avenue, Chicago, Illinois 60622.  
10

11 **JURISDICTION AND VENUE**

12 4. This court has subject matter jurisdiction pursuant to 15 U.S.C. § 1121, 28  
13 U.S.C. §§ 1331, 1332, and 1338, as well as 28 U.S.C. § 1367(a), which provides for  
14 supplemental jurisdiction over related state law claims.  
15

16 5. Venue is proper in the Western District of Washington pursuant to 28 U.S.C. §  
17 1391, *et seq.* Defendant is promoting, offering for sale and/or selling its goods in this district in  
18 association with the infringing mark, and a substantial part of the injury to Plaintiff's property  
19 that is the subject of this action occurs in this district.  
20

21 **FACTS**

22 6. Bainbridge is a leading manufacturer of hardware used in the manufacture of  
23 cabinets, closets and furniture.  
24  
25  
26

1           7. As early as June 6, 1967, Bainbridge adopted and used the mark CABINET  
2 MASTER, has continuously used the mark since that time, and is currently using the mark in  
3 commerce, as a trademark for cabinet hardware.

4           8. Bainbridge is the owner of United States Trademark Registration No. 880,749  
5 for the trademark CABINET MASTER for cabinet hardware—namely, door and drawer pulls,  
6 door catches, shelf supports, an drawer guides and glides. A copy of the registration is attached  
7 hereto as Exhibit A.

8           9. Since its initial use of the mark, Bainbridge has conducted substantial business  
9 in connection with the CABINET MASTER mark, and has conducted substantial advertising  
10 and promotion of the CABINET MASTER mark.

11           10. As a result of Bainbridge's thirty-five years of use and promotion of its  
12 CABINET MASTER mark in connection with its business and products, the mark has become  
13 famous with the relevant purchasing public and is recognized as identifying Bainbridge's high-  
14 quality cabinet hardware. The CABINET MASTER mark and the goodwill associated  
15 therewith are valuable assets of Bainbridge.

16           11. Defendant has used, and is continuing to use, the infringing mark CABINET  
17 MASTER for metal bar clamps used and promoted specifically for cabinet-making and other  
18 woodworking projects. Attached hereto as Exhibit B are copies of pages from the Amazon.com  
19 website showing and offering for sale Defendant's CABINET MASTER clamps.

20           12. Upon information and belief, Defendant has applied to register the mark  
21 CABINET MASTER with the United States Patent and Trademark Office and is the owner of  
22 pending United States Trademark Application Serial No. 76/264,039 for CABINET MASTER  
23  
24  
25  
26

1 for hand tools, namely clamps. A copy of the USPTO TARR report for this application is  
 2 attached hereto as Exhibit C.

3 13. Defendant is promoting, marketing and offering its CABINET MASTER brand  
 4 clamps for sale in interstate commerce in the State of Washington and elsewhere in the United  
 5 States.  
 6

7 14. Defendant's clamps are closely related to Plaintiff's products in that they are all  
 8 used by the same consumers to make the same cabinets and other furniture. The parties'  
 9 products travel through the same channels and are sold to the same types of customers. Upon  
 10 information and belief, Defendant has acted with actual and/or constructive knowledge of  
 11 Bainbridge's rights.  
 12

13 15. Upon information and belief, Defendant has carried out these acts with  
 14 knowledge of Bainbridge's rights and in conscious disregard of Bainbridge's rights.  
 15

### 16 **FIRST COUNT – TRADEMARK INFRINGEMENT**

17 16. Plaintiff repeats and realleges each of the allegations contained in paragraphs 1  
 18 through 15 of this Complaint.

19 17. Defendant's use of the CABINET MASTER mark, which is identical to  
 20 Bainbridge's registered trademark CABINET MASTER, is likely to cause confusion and  
 21 mistake. Such use by Defendant of the infringing CABINET MASTER mark deceives, and is  
 22 likely to deceive, others into believing that Defendant's goods are sponsored by, approved by,  
 23 or affiliated with Plaintiff.  
 24  
 25  
 26

1 18. Plaintiff has notified Defendant of Plaintiff's rights in the CABINET MASTER  
2 mark. Despite such actual and/or constructive knowledge of Plaintiff's rights, Defendant has  
3 continued its infringing behavior.

4 19. Defendant's acts violate the Lanham Act, 15 U.S.C. § 1114.

5 20. Plaintiff has been and continues to be damaged in a manner that cannot be fully  
6 measured or compensated in economic terms and for which there is no adequate remedy at law.  
7 The actions of Defendant have damaged and will continue to damage Plaintiff's market,  
8 reputation, and goodwill. Such irreparable harm will continue unless Defendant's acts are  
9 restrained and/or enjoined during the pendency of this action and thereafter.  
10

11 21. Plaintiff has been damaged by Defendant's actions in an amount to be proven at  
12 trial.  
13

14  
15 **SECOND COUNT – FALSE DESIGNATION OF ORIGIN**

16 22. Plaintiff repeats and realleges each of the allegations set forth in paragraphs 1  
17 through 21 of this Complaint.

18 23. Defendant's use of the infringing CABINET MASTER mark constitutes false  
19 designation of origin, false or misleading description, and/or false or misleading representation.  
20 Such unauthorized use causes, and is likely to cause, confusion, mistake, or deception of others,  
21 as to the affiliation, connection, or association of Defendant with Bainbridge and vice versa,  
22 and also causes, and is likely to cause, confusion, mistake, or deception as to the origin,  
23 sponsorship, or approval of the goods of Defendant with those of Bainbridge, and vice versa.  
24  
25  
26

24. Such false designation, description, and/or representation constitutes unfair competition and is an infringement of Bainbridge's rights in its CABINET MASTER mark in violation of the Lanham Act, 15 U.S.C. § 1125(a).

25. Defendant knew, or should have known, of Bainbridge's rights, and Defendant's false description, false representation, and false designation of origin were knowing, willful, and deliberate, making this an exceptional case within the meaning of 15 U.S.C. § 1117.

26. Bainbridge has been, and will continue to be, damaged by such false description, false representation, and false designation of origin in a manner and amount that cannot be fully measured or compensated in economic terms. Defendant's actions have damaged, and will continue to damage, Bainbridge's market, reputation, and goodwill, and may discourage current and potential customers from dealing with Bainbridge. Such irreparable harm will continue unless Defendant's acts are restrained and/or enjoined during the pendency of this action and thereafter.

27. Bainbridge has been damaged by Defendant's actions in an amount to be proven at trial.

### **THIRD COUNT – UNFAIR COMPETITION**

28. Bainbridge repeats and realleges each of the allegations set forth in paragraphs 1 through 27 of this Complaint.

29. The improper use by Defendant of a trademark confusingly similar to the trademark of Plaintiff Bainbridge, Defendant's misappropriation of Bainbridge's trademark,

1 and other unfair activities constitute unfair competition and a violation of the common law  
 2 rights of Plaintiff Bainbridge.

3 30. The foregoing activities were, and are, likely to cause confusion or mistake  
 4 among consumers as to the origin or affiliation of Defendant's unauthorized and imitation  
 5 products. The unfair competition of Defendant has caused, and will cause, irreparable injury  
 6 and damage to the business, reputation, and goodwill of Plaintiff Bainbridge. Such irreparable  
 7 injury will continue unless the acts of Defendant are enjoined during the pendency of this  
 8 action and thereafter.  
 9  
 10

11 **FIFTH COUNT – VIOLATION OF THE WASHINGTON STATE**

12 **CONSUMER PROTECTION ACT**

13 31. Plaintiff repeats and realleges each of the allegations set forth in paragraphs 1  
 14 through 30 of this Complaint.  
 15

16 32. The use by Defendant of the infringing mark CABINET MASTER infringes  
 17 Plaintiff's CABINET MASTER mark and constitutes an unfair method of competition in  
 18 business and an unfair trade practice in business, as well as a fraudulent representation, which  
 19 are damaging to the public interest in violation of the Washington Consumer Protection Act,  
 20 R.C.W. § 19.86.020.  
 21

22 33. The use by Defendant of a mark that infringes Plaintiff Bainbridge's trademark  
 23 in connection with the sale of goods used for manufacturing cabinets has been knowing,  
 24 willful, and deliberate.  
 25  
 26

1           34. Plaintiff has been and will continue to be irreparably injured by reason of  
 2 Defendant's unfair methods of competition and unfair trade practices in violation of the  
 3 Washington Consumer Protection Act. Such irreparable injury will continue unless the acts of  
 4 Defendant are enjoined during the pendency of this action and thereafter.

5  
 6           35. Bainbridge has been damaged by Defendant's actions in an amount to be proven  
 7 at trial.

8  
 9                           **SIXTH COUNT – FEDERAL TRADEMARK DILUTION**

10           36. Plaintiff repeats and realleges each of the allegations set forth in paragraphs 1  
 11 through 35 of this Complaint.

12           37. As a result of Bainbridge's thirty-five years of use and promotion of the  
 13 CABINET MASTER trademark for cabinet hardware, the CABINET MASTER mark has  
 14 become famous in the relevant marketplace in Washington and elsewhere. Bainbridge's sales  
 15 and promotion of products under its CABINET MASTER mark have been substantial and  
 16 extensive.

17  
 18           38. Defendant's unauthorized use of the mark CABINET MASTER constitutes a  
 19 commercial use in commerce and dilutes the distinctive quality of Bainbridge's famous  
 20 CABINET MASTER trademark. Upon information and belief, Defendant willfully intended to  
 21 trade on Bainbridge's reputation and to cause the dilution of the aforementioned trademark in  
 22 violation of Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c).

23  
 24           39. Bainbridge has been, and will continue to be, damaged by Defendant's dilution  
 25 of the CABINET MASTER trademark that cannot be fully measured or compensated in  
 26



1 economic terms. Defendant's actions have damaged, and will continue to damage,  
 2 Bainbridge's business, market, reputation, and goodwill, and may discourage current and  
 3 potential customers from dealing with Bainbridge. Such irreparable harm will continue unless  
 4 Defendant's acts are restrained and/or enjoined during the pendency of this action and  
 5 thereafter.  
 6

7 40. Bainbridge has been damaged by Defendant's actions in an amount to be proven  
 8 at trial.  
 9

#### 10 **SEVENTH COUNT – STATE TRADEMARK DILUTION**

11 41. Plaintiff repeats and realleges each of the allegations set forth in paragraphs 1  
 12 through 40 of this Complaint.  
 13

14 42. The CABINET MASTER trademark as used in connection with Bainbridge's  
 15 goods has become famous in the relevant marketplace in Washington through Bainbridge's  
 16 thirty-five years of substantially exclusive and continuous use. Bainbridge's sales and  
 17 promotion of products under the mark have been substantial and extensive.

18 43. Defendant's unauthorized use of the CABINET MASTER mark causes dilution  
 19 of the distinctive quality of the CABINET MASTER trademarks in violation of R.C.W. §  
 20 19.77.160.  
 21

22 44. Upon information and belief, Defendant willfully intended to trade on  
 23 Bainbridge's reputation and cause the dilution of Bainbridge's trademark rights.

24 45. Bainbridge has been, and will continue to be, damaged as a result of Defendant's  
 25 dilution of the CABINET MASTER trademarks and Bainbridge's trademark rights in a manner  
 26

1 and amount to be proven at trial and that cannot be fully measured or compensated in economic  
 2 terms. Defendant's actions have damaged, and will continue to damage, Bainbridge's business,  
 3 market, reputation, and goodwill, and may discourage current and potential customers from  
 4 dealing with Bainbridge. Such irreparable harm will continue unless Defendant's acts are  
 5 restrained and/or enjoined during the pendency of this action and thereafter.  
 6

7 46. Bainbridge has been damaged by Defendant's actions in an amount to be proven  
 8 at trial.  
 9

### 10 **PRAYER FOR RELIEF**

11 WHEREFORE, Plaintiff prays for judgment as follows:

12 1. That Defendant and its officers, agents, servants, employees, attorneys and all  
 13 other persons in active concert or participation with any of them, be enjoined and restrained  
 14 during the pendency of this action and permanently thereafter from using the mark or  
 15 designation CABINET MASTER or any confusingly similar mark in connection with the  
 16 marketing or sale of Defendant's goods;  
 17

18 2. That Defendant and its officers, agents, servants, employees, attorneys and all  
 19 other persons in active concert or participation with any of them, be enjoined and restrained  
 20 during the pendency of this action and permanently thereafter from all acts of false description  
 21 and representation and false designation of origin, all acts of unfair competition and unfair  
 22 business practices, including the marketing, promotion and sale of clamps in a manner that is  
 23 likely to cause confusion, to cause mistake, to deceive, including the use of any mark that is  
 24 confusingly similar to Plaintiff's trademarks;  
 25  
 26

3. That Defendant be directed to withdraw its pending application for registration of the CABINET MASTER mark and to refrain from seeking to register or use on woodworking tools and parts any mark incorporating the words "CABINET MASTER;"

4. That Defendant be directed to file with this Court and serve on Plaintiff's counsel within thirty (30) days after the service of an injunction, a report in writing, under oath, setting forth in detail the manner and form in which Defendant has complied with the injunction;

5. That Defendant be required to pay Plaintiff such damages as Plaintiff has sustained, or will sustain, in consequence of Defendant's trademark infringement, false designation of origin, unfair competition, unfair business practices, and trademark dilution, and to account for all gains, profits, and advantages derived by Defendant that are attributable to such unlawful acts; and that such damages be trebled as provided by 15 U.S.C. § 1117 and R.C.W. § 19.86.090;

6. That the Court adjudge this to be an exceptional case and require the Defendant to pay over to Plaintiff the cost of this action, including reasonable attorneys fees and interest as provided by 15 U.S.C. § 1117 and R.C.W. § 19.86.090;

7. That Defendant be ordered to pay Plaintiff prejudgment and post judgment interest on all sums allowed by law;

8. That this Court order that all infringing promotional materials, products, and other materials of Defendant or in the possession of Defendant that are similar in appearance to Plaintiff's promotional materials or likely to cause confusion, to cause mistake, or to deceive, be delivered to Plaintiff and destroyed pursuant to 15 U.S.C. § 1118; and

1           9.     That Plaintiff have such other and further relief as the Court may deem  
2 equitable.

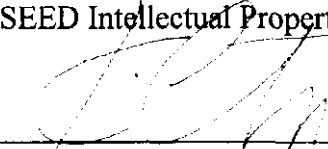
3                                 **DEMAND FOR JURY TRIAL**

4           Plaintiff demands a trial by jury as to all issues so triable.

5  
6           DATED this 22<sup>ND</sup> day of January, 2003.

7  
8                                 Respectfully submitted,

9                                 SEED Intellectual Property Law Group PLLC

10  
11                                   
12                                 Kevin S. Costanza, WSBA No. 25,153  
13                                 Timothy L. Boller, WSBA No. 29079  
14                                 701 Fifth Avenue, Suite 6300  
15                                 Seattle, Washington 98104-7092  
16                                 (206) 622-4900

17                                 Attorneys for Plaintiff  
18                                 BAINBRIDGE MANUFACTURING, INC.

19  
20  
21  
22  
23  
24  
25  
26  
350193\_1.DOC



Int. Cl.: 6

Prior U.S. Cl.: 13

Reg. No. 880,749

United States Patent and Trademark Office

Registered Nov. 18, 1969

10 Year Renewal

Renewal Term Begins Nov. 18, 1999

**TRADEMARK  
PRINCIPAL REGISTER**

**CABINET MASTER**

BAINBRIDGE MANUFACTURING, INC.  
(WASHINGTON CORPORATION)  
7873 NORTHEAST DAY RD.  
BAINBRIDGE ISLAND, WA 98110

THE WORD "CABINET" IS DIS-  
CLAIMED APART FROM THE MARK  
AS SHOWN.

FOR: CABINET HARDWARE—  
NAMELY, DOOR AND DRAWER  
PULLS, DOOR CATCHES, SHELF SUP-  
PORTS, AND DRAWER GUIDES AND  
GLIDES, IN CLASS 13 (INT. CL. 6).

FIRST USE 6-9-1967; IN COMMERCE  
6-9-1967.

SER. NO. 72-301,028, FILED 6-21-1968.

*In testimony whereof I have hereunto set my hand  
and caused the seal of The Patent and Trademark  
Office to be affixed on Apr. 11, 2000.*

**EXHIBIT A**

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- Reversible head for spreader clamp feature
- Built-in clamp stand for easy adjustment
- 10% longer screw travel than the competition

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 [Jorgensen 8048 48" Cabinet Master 90 Degree Parallel Steel Master Bar Clamp](#)  
Jorgensen

**Amazon.com Sales Rank:** 1,295  
**Note:** Giftwrapping not available for this item.  
**Shipping:** Currently, item can be shipped only within the U.S.  
**Shipping weight:** 3.5 pounds.  
**ASIN:** B00005R1HN

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EXHIBIT B





Bessey KBK2440  
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☐ instead of this product

## Editorial Reviews

### From the Manufacturer

Introducing the NEW Cabinet Master 90 Degree Parallel Steel Bar Clamp. These new clamps are made for cabinet assembly with BIGGER and BETTER than average features that create an unbeatable clamp.

## Customer Reviews

Avg. Customer Review: ★★★★★

**Write an online review and share your thoughts with other customers.**

1 of 1 people found the following review helpful:

★★★★★ **My favorite clamps**, November 28, 2002

Reviewer: [curtis\\_r \(see more about me\)](#) from San Francisco

In general, bar clamps are great, and the end of pipe clamps as far as I'm concerned. Pipe clamps roll all over the place (unless you have stabilizers), thus require a lot of finesse to use more than 1 @ a time.

In contrast, bar clamps stand upright all by themselves. I own Bessy & Jorgensen & only notice 1 key difference between them: When you hold the bottom of the Bessy bar vertically, you have an excellent chance of the adjustable portion of the bar sliding rapidly down into your fingers - owch! I have not had the Jorgensen bar spontaneously slide freely into my fingers. This is important if you hang your clamps on a wall for storage.

Was this review helpful to you? ☒ yes ☐ no



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for  
less  
with

the Sharp VL-  
NZ100U MiniDV--now  
just \$299.99 after  
rebate.

1 of 1 people found the following review helpful:

★★★★☆ **Good clamps; questionable quality**, October 29, 2002

Reviewer: **A home improvement enthusiast** from Seattle, WA United States

I've bought several of these clamps; two of them were permanently stuck closed, and no amount of banging and prying would make them open. On one that wasn't stuck, the casting that houses the stacked plates broke as I was tightening the screw. I'm no gorilla--I was just turning the handle with normal hand pressure, and POP, the whole thing came apart sending hunks of pot metal flying across the shop. To their credit, Jorgensen was very prompt in sending me a replacement with no questions asked. I just hope the breakage was a fluke...

In theory, these should be good clamps. My experience makes me concerned.

Was this review helpful to you? ☒ yes ☐ no

4 of 4 people found the following review helpful:

★★★★☆ **very nice clamps**, April 22, 2002

Reviewer: **woodrot (see more about me)** from Simsbury, Connecticut United States

I like these clamps because they are sturdy and have solid wooden handles that allow for tight clamping procedures. I have used them many times and the only knock I have on them is that they are a little too bulky for my liking, but in some cases this may be a plus. I have had no problems with damage to wood after clamping and no difficulty with glue binding to the clamp. I definitely recommend buying these clamps versus the many other brands that are out there. Basically, they are a good purchase for the money.

Was this review helpful to you? ☒ yes ☐ no

---

## Listmania!

- [Sawdust Junkie Stash](#): A list by [daniland11](#), Router Enthusiast
- [Woodshop Money Pit](#): A list by [Ernest R. Ferraro](#), Lawyer Who Makes Dust

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**Serial Number:** 76264039

**Registration Number:** (NOT AVAILABLE)

**Mark (words only):** CABINET MASTER

**Current Status:** Opposition period completed, a Notice of Allowance has been issued.

**Date of Status:** 2002-11-12

**Filing Date:** 2001-05-30

**The Notice of Allowance Date is:** 2002-11-12

**Registration Date:** (DATE NOT AVAILABLE)

**Law Office Assigned:** TMO Law Office 114

**Attorney Assigned:**

DWYER SEAN W Employee Location

**Current Location:** 700 -Intent To Use Section

**Date In Location:** 2003-01-06

---

**CURRENT APPLICANT(S)/OWNER(S)**

---

**1. ADJUSTABLE CLAMP COMPANY**

**Address:**

ADJUSTABLE CLAMP COMPANY

417 North Ashland Ave.

Chicago, IL 60622

United States

**State or Country of Incorporation:** Illinois

**Legal Entity Type:** Corporation

---

**GOODS AND/OR SERVICES**

---

Hand tools, namely clamps

**International Class:** 008

**First Use Date:** (DATE NOT AVAILABLE)

**First Use in Commerce Date:** (DATE NOT AVAILABLE)

**Basis:** 1(b)

**EXHIBIT C**

---

**ADDITIONAL INFORMATION**

---

**Disclaimer:** "CABINET"

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**PROSECUTION HISTORY**

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2002-11-12 - Notice of allowance - mailed

2002-08-20 - Published for opposition

2002-07-31 - Notice of publication

2002-04-29 - Approved for Pub - Principal Register (Initial exam)

2002-04-11 - Examiner's amendment mailed

2002-02-11 - Communication received from applicant

2001-08-07 - Non-final action mailed

2001-07-26 - Case file assigned to examining attorney

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**CONTACT INFORMATION**

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**Correspondent (Owner)**

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